

# **EXHIBIT G**

**In The Matter Of:**

*ASARCO, LLC*

*v.*

*NL INDUSTRIES, INC.*

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*GRIMAILA, ROBERT - Vol. 1*

*November 7, 2013*

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**MERRILL CORPORATION**

**Legalink, Inc.**

20750 Ventura Boulevard  
Suite 205  
Woodland Hills, CA 91364  
Phone: 818.593.2300  
Fax: 818.593.2301

ROBERT GRIMAILA - 11/7/2013

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

ASARCO, LLC,	)	CASE NO. 4:11-CV-00864 JAR
	)	
PLAINTIFF,	)	
	)	VIDEOTAPE
vs.	)	DEPOSITION OF
	)	ROBERT GRIMAILA
NL INDUSTRIES, INC.,	)	
ET AL.,	)	
	)	
DEFENDANTS.	)	

VIDEOTAPE DEPOSITION OF ROBERT GRIMAILA, taken  
before Mary Lou Harmon, RPR, CRR, CSR(IA), CCR, General  
Notary Public within and for the State of Nebraska,  
beginning at 9:05 a.m., on the 7th day of November 2013,  
at Cassem, Tierney, Adams, Gotch & Douglas, Suite 302,  
9290 West Dodge Road, Omaha, Nebraska.

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1 A P P E A R A N C E S

2 FOR THE PLAINTIFF:

MR. GREGORY EVANS

3 INTEGER LAW CORPORATION

633 West Fifth Street

4 Floor 67

Los Angeles, CA 90071

5 (213)892-4488 FAX(213)627-2579

gevens@integerlegal.com

6

FOR DEFENDANT UNION PACIFIC RAILROAD COMPANY:

7 MS. CAROLYN L. MCINTOSH

MS. MAXINE MARTIN

(via telephone)

8 PATTON BOGGS, LLP

1801 California Street

9 Suite 4900

Denver, CO 80202

10 (303)894-6127 FAX(303)894-9239

cmcintosh@pattonboggs.com

11

MS. MELISSA B. HAGAN

12 Union Pacific Railroad Company

1001 McKinney

13 Suite 900

Houston, Texas

14 mbhagan@up.com

15 MR. NORTON A. COLVIN, JR.

COLVIN, CHANEY, SAENZ & RODRIGUEZ, LLP

16 1201 East Van Buren Street

P.O. Box 2155

17 Brownsville, TX 78522

(956)542-7441 FAX(956)541-2170

18 na.colvin@rcclaw.com

19 FOR THE DEFENDANT ANSCHUTZ MINING CORPORATION:

MR. WINSTON E. CALVERT

(via telephone)

20 ARMSTRONG TEASDALE, LLP

7700 Forsyth Boulevard

21 Suite 1800

St. Louis, MO 63105

22 (314)259-4752 FAX(314)552-4883

wcalvert@armstrongteasdale.com

23

24

25

Merrill Corporation - Los Angeles

800-826-0277

www.merrillcorp.com/law

ED\_000859\_00001513-00004

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1

APPEARANCES, CONT'D

2

FOR THE DEFENDANT NL INDUSTRIES:

MR. JOEL L. HERZ

(via telephone)

3

LAW OFFICES OF JOEL L. HERZ

3573 E. Sunrise Drive

4

Suite 215

Tucson, AZ 85718

5

(520)529-8080

joel@joelherz.com

6

7

Also Present: Mr. John Powers (via telephone)

Mr. Jay Rollins - Videographer

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1 BY MR. EVANS:

2 Q. Have you ever had inter-railroad meetings to  
3 discuss items of concern to the Union Pacific that might  
4 be of concern to the BNSF with Mr. Schultz --

5 MS. MCINTOSH: Objection. The  
6 question --

7 BY MR. EVANS:

8 Q. -- at BNSF?

9 MS. MCINTOSH: Objection. The question  
10 is vague.

11 THE WITNESS: I got lost in the question  
12 back and forth, so could you read it back to me or  
13 rephrase it, please?

14 MR. EVANS: Let's have it read back.

15 It's Schulte; right, or is it Schultz?

16 THE WITNESS: The person we're talking  
17 about, Mark Schultz is the way --

18 MR. EVANS: Schultz, okay.

19 THE WITNESS: -- to pronounce it.

20 BY MR. EVANS:

21 Q. I'm just going to ask the question again to  
22 move it along.

23 Have you ever had meetings with Mr. Schultz  
24 regarding safety issues affecting both railroads?

25 MS. MCINTOSH: I object to relevance.



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1 Please go ahead.

2 THE WITNESS: I don't recall hearing  
3 about this before, no.

4 BY MR. EVANS:

5 Q. Thank you. Let me refer you to next -- I just  
6 want to double check something. Excuse me a second.

7 -- to the 1982 entry where it says, the UP, MP and WP  
8 merger was approved by the ICC.

9 Do you know what that entry refers to?

10 A. I believe it's just what it says.

11 Q. Can you tell us, based on your professional  
12 position with Union Pacific, what -- for the court that  
13 might not understand what UP, dash, MP, dash, WP means?

14 A. To me those letters mean Union Pacific,  
15 Missouri Pacific, and Western Pacific.

16 Q. Merged, and that merger was approved by the  
17 ICC?

18 MS. MCINTOSH: I object that that calls  
19 for a legal conclusion.

20 THE WITNESS: That's what the bullet  
21 point says, yes.

22 BY MR. EVANS:

23 Q. Okay. Let me refer you now to the next page,  
24 Bates stamp 1086, under the 1997 entry, where it states,  
25 "On January 1, the Missouri Pacific Railroad legally

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1 merges into Union Pacific Railroad, with UPRR remaining  
2 as the surviving corporation."

3 Is that a true statement?

4 MS. MCINTOSH: Objection that it calls  
5 for a legal conclusion.

6 THE WITNESS: It's true that the bullet  
7 says that. I'm not an expert on the legal merger  
8 proceedings.

9 BY MR. EVANS:

10 Q. Was it your experience, I think as you've  
11 testified already, that Missouri Pacific merged into the  
12 Union Pacific?

13 MS. MCINTOSH: Objection. It  
14 mischaracterizes Mr. Grimaila's prior testimony --

15 MR. EVANS: Are you kidding?

16 MS. MCINTOSH: And your question calls  
17 for a legal conclusion.

18 BY MR. EVANS:

19 Q. Do you have the question in mind?

20 A. Yes. We were advised that we were merged into  
21 the UP, yes.

22 Q. So you have personal knowledge of that?

23 A. I do.

24 Q. And as to the Missouri Pacific getting control  
25 of the St. Louis, Iron Mountain & Southern, you have no

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1 BY MR. EVANS:

2 Q. This type of material being?

3 A. What you had mentioned in your question.

4 Q. Which is?

5 A. Lead concentrate.

6 Q. Thank you.

7 (Exhibit No. 7

8 marked for identification.)

9 BY MR. EVANS:

10 Q. Do you know whether Union Pacific railroads,  
11 including all of its predecessor railroads, ever  
12 transported any chat on its system in Missouri in open  
13 cars?

14 MS. MCINTOSH: I object that that  
15 question was asked and answered.

16 THE WITNESS: To repeat, I have no  
17 knowledge of that, no.

18 BY MR. EVANS:

19 Q. Who would know at Union Pacific about its  
20 practices in southeast Missouri?

21 Who's the most knowledgeable person at the  
22 company regarding Union Pacific's practices in southeast  
23 Missouri on these predecessor rail lines?

24 A. I don't know. I would have to ask some  
25 questions. I wouldn't know who to tap on that.

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1 Q. Who would you ask?

2 A. I'd -- well, let me think about that for a  
3 minute.

4 What I would do is start with a law department  
5 representative and see if they knew of sources of  
6 information in the company that they would go to.

7 Q. Do you know whether Union Pacific has done  
8 anything to contain runoff from any of its predecessor  
9 lines in the state of Missouri from its right-of-way?

10 MS. MCINTOSH: I object to the form of  
11 the question. It calls for a legal conclusion. It also  
12 calls for speculation.

13 THE WITNESS: I do not.

14 BY MR. EVANS:

15 Q. I assume Union Pacific has specific  
16 containment practices as it relates to spills on rail  
17 line?

18 MS. MCINTOSH: I object to the form of  
19 the question. It's also vague.

20 THE WITNESS: Each spill is addressed as  
21 a unique event, and we do what we believe to be the  
22 proper thing at that time.

23 BY MR. EVANS:

24 Q. Is there a safety manual that is generated  
25 regarding hazardous material spills on the Union

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1 A. "Combined Environmental and Historic Report."

2 Q. Does it appear to have been prepared by Union  
3 Pacific Railroad Company?

4 A. Yes.

5 Q. Have you ever heard the name James P. Gatlin,  
6 general attorney, for Union Pacific?

7 A. Yes.

8 Q. Is he still working for the company?

9 A. I don't believe so, but I don't know for sure.

10 Q. Is UP located -- its corporate headquarters on  
11 1416 Dodge Street in Omaha, Nebraska?

12 A. No. We've changed addresses since then.

13 Q. That at one time was a UP address?

14 A. Yes.

15 Q. Referring you to Page 8 --

16 MS. MCINTOSH: Excuse me?

17 BY MR. EVANS:

18 Q. Referring you to Page 8 of Exhibit 13, which  
19 is Bates 28526.

20 Under the heading "Proposed Mitigation.  
21 Describe any actions that are proposed to mitigate  
22 adverse environmental impacts, including why the  
23 proposed mitigation is appropriate."

24 Do you see the response, sir?

25 A. I do.

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## 1 CERTIFICATE OF REPORTER

2 I, Mary Lou Harmon, a Certified Shorthand  
3 Reporter, hereby certify that the witness in the  
4 foregoing deposition was by me duly sworn to tell  
5 the truth, the whole truth, and nothing but the  
6 truth in the within-entitled cause;

7 That said deposition was taken down in  
8 shorthand by me, a disinterested person, at the time  
9 and place therein stated, and that the testimony of  
10 the said witness was thereafter reduced to  
11 typewriting, by computer, under my direction and  
12 supervision;

13 That before completion of the deposition,  
14 review of the transcript was requested. Any changes  
15 made by the deponent (and provided to the reporter)  
16 during the period allowed are appended hereto.

17 I further certify that I am not of counsel  
18 or attorney for either or any of the parties to the  
19 said deposition, nor in any way interested in the  
20 event of this cause, and that I am not related to  
21 any of the parties thereto.

22 DATED: November 13, 2013

23 MARY LOU HARMON, RPR, CRR  
24 CSR NO. 0112

25 My commission expires: